

DECLARATION OF WILSON SMART

I, Wilson Smart, residing at 245 Washington Avenue, Palo Alto, California, hereby declare as follows:

1. I am the President of Kumetrix, Inc. located at 29524 Union City Blvd., Union City, CA 94587. The company was incorporated in 1997 by me and Kumar Subramanian.

2. In consideration of his employment by Kumetrix, Kuman Subramanian executed an employment agreement with Kumetrix dated February 21, 1997, a true and correct copy of which is attached to this declaration. Paragraph 2.1 of that agreement states "I [Kumar Subramanian] hereby assign to the Company all my right, title, and interest in and to any and all Inventions (and all Proprietary Rights with respect thereto) whether or not patentable or registrable under copyright or similar statutes, made or conceived or reduced to practice or learned by me, either alone or jointly with others, during the period of my employment with the Company."

3. During his employment at Kumetrix, Mr. Subramanian participated on teams of employees that conceived of and made several inventions, including the following:

A. In 1998, a joint team of employees including me, Mr. Subramanian, and Eugene Orloff developed methods of strengthening cantilevers in silicon micromechanical devices to prevent breakage in the silicon microprobes and microneedles of our minimally invasive MEMS devices for biondiagnostics. This invention was conceived by us on or about June 12, 1997 and actually made by us on or about July 4, 1998 at Kumetrix using Kumetrix's company equipment and facilities, and was later described and claimed in U.S. Patent Application No. 09/816,470, entitled "Silicon Penetration Device with Increased Fracture Toughness and Method of Fabrication," filed on March 26, 2001. I personally worked with Mr. Subramanian and Mr.

Orloff in reducing to practice this invention using Kumetrix's facilities during employment hours.

B. In 2000, a team of Kumetrix employees including me, Mr. Subramanian, and Mr. Orloff developed a silicon microprobe containing an integrated biosensor for measuring various analytes of medical significance in blood by painless insertion into the skin. This invention was conceived by us on or about January 27, 1999 and actually made by us on or about July 10, 2000 at Kumetrix using Kumetrix's company equipment and facilities, and was later described and claimed in U.S. Patent Application No. 09/816,472, entitled "Silicon Microprobe with Integrated Biosensor," filed on March 26, 2001. I personally worked with Mr. Subramanian and Mr. Orloff to reduce to practice this invention using Kumetrix's facilities during employment hours.

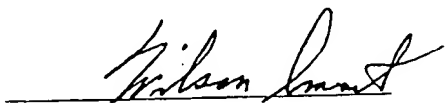
C. In 1997, a team of Kumetrix employees including me, Mr. Subramanian, and Asikeh Kanu conceived the idea of silicon nitride windows for performing optical readout of biodiagnostic assays in silicon microcuvettes. This invention was conceived by us on or about July 21, 1997 and was actually made by us on or about August 11, 1997 at Kumetrix using Kumetrix's company equipment and facilities, and was later described and claimed in U.S. Patent Application No. 09/816,497, entitled "Silicon Nitride Window for Microsampling Device and Method of Construction," filed on March 26, 2001. I personally worked with Mr. Subramanian and Mr. Kanu to reduce to practice this invention using Kumetrix's facilities during employment hours.

D. In 1997, a team of Kumetrix employees including me, Mr. Subramanian, and Eugene Orloff developed solid silicon lancets (without a hollow bore) to painlessly puncture the skin for the purpose of obtaining blood samples for analysis with other biodiagnostic assay devices. Many lancets were designed, fabricated, and evaluated in the period August, 1997 through

December, 1998, at Kumetrix using Kumetrix's company equipment and facilities. This invention was first actually made by us on or about July 21, 1997, and was later described and claimed in U.S. Patent Application No. 09/817,567, entitled "Silicon Microlancet Device and Method of Construction," filed on March 26, 2001. I personally worked with Mr. Subramanian and Mr. Orloff to reduce to practice this invention using Kumetrix's facilities during employment hours.

4. Due to a business dispute, Mr. Subramanian was terminated from Kumetrix by the Board of Directors on November 30, 2000. After the patent applications were filed on March 26, 2001, Kumetrix's patent attorney received a letter from Mr. Subramanian's attorney, Michael Sebree, indicating that Mr. Subramanian would execute patent assignments to Kumetrix if changes were made to list his [Subramanian's] name first on two of the patents, Patent Application Nos. 09/816,497 and 09/817,567. However, Mr. Subramanian later refused to sign the four patent assignments or the patent declaration for Application No. 09/816,472, and Kumetrix was forced to file the application without his signature.

5. Mr. Subramanian's employment agreement assigned all his rights in the above-identified patent applications to Kumetrix. I declare under penalty of perjury that the foregoing is true and correct. Executed by me on:



Wilson Smart

7 DEC 2002

Date